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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/826,988

04/19/2004

Ken Shiozaki

USUI-13W

3495

1218 7590 05/06/2008  
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274 MADISON AVENUE  
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EXAMINER

BERTHEAUD, PETER JOHN

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

05/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/826,988	<b>Applicant(s)</b> SHIOZAKI ET AL.	
	<b>Examiner</b> PETER J. BERTHEAUD	<b>Art Unit</b> 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/3/2008 has been entered. It is noted that claims 1 and 3 have been amended.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiozaki 6,550,596.

Shiozaki teaches a control method of an external control system fan clutch wherein the interior of a sealing housing 2 constructed by a case of a non-magnetic material supported through a bearing 13 on a rotating shaft body 1 fixedly attaching a drive disk 3 to its tip and a cover 2-2 attached to this case is partitioned by a partition plate 4 into an oil reservoir chamber 5 and a torque transmission chamber 6 for

Art Unit: 3746

internally mounting said drive disk 3 by a partition plate 4; a dam 15 is arranged in one portion of the inner circumferential wall face of the cover opposed to the outer circumferential wall portion of the drive disk 3 for collecting and reservoiring oil at the rotating time, and a valve member 9 comprising a spring material and having a magnetic property and being arranged within the oil reservoir chamber, for closing an oil circulating flow passage formed in the partition plate 4 between the torque transmission chamber 6 and the oil reservoir chamber 5 is connected to the dam 15 and is arranged within the oil reservoir chamber 5; an electromagnet 11 is supported by said rotating shaft body 1 through the bearing 14 on the oil reservoir chamber 5 side of said sealing housing, and a mechanism for controlling the opening and closing of the oil circulating flow passage, the method comprising: biasing the valve member 9 against the partition plate 4 for keeping the oil circulating flow passage in a normally closed condition; selectively operating the electromagnet 11; and controlling rotating torque transmission from a drive side to a driven side by increasing and decreasing an effective contact area of the oil in a torque transmission clearance portion formed by the drive side and the driven side (see col. 2, lines 16-27); wherein the opening and closing of said valve member could be controlled on the basis of a plurality of signals selected from the cooling liquid temperature of a radiator, a fan rotating speed, the temperature of transmission oil, a vehicle speed, an engine rotating speed, the pressure of a compressor of an air conditioner, and a turning-on or turning-off signal of the air conditioner (see col. 1, lines 6-11, and 47-53). Although not explicitly stated, it is obvious that the apparatus of Shiozaki is capable of performing a method wherein an

Art Unit: 3746

upper limit rotating speed is set to an optimum fan rotating speed required from the engine side (see col. 10, lines 14-23); a fan rotating speed control signal is temporarily stopped on the basis of the differential speeds between an engine rotating speed, the fan rotating speed and said optimum fan rotating speed; the fan rotating speed control signal is temporarily stopped on the basis of an engine rotating acceleration or an accelerator (throttle) position acceleration; or a limit is given to a changing rate of the optimum fan rotating speed on the basis of the changing rate of said optimum fan rotating speed; and, wherein a magnetic material of a ring shape 11-1 is arranged between said electromagnet and the valve member, and is constructed by assembling the magnetic material into the sealing housing so as to transmit a magnetic flux of the electromagnet to the valve member through the magnetic material (see col. 5, lines 13-27).

Shiozaki discloses the claimed invention except for the electromagnet attracting the valve member and deflecting the valve member away from the oil circulating flow passage, specifically, turning-off the electromagnet so that the spring material biases the valve member against the partition plate for closing the oil circulating passage. It would have been obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to by-pass the use of the permanent magnet and open the circulating flow passage of Shiozaki by actuating the electromagnet instead of closing it, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art (*In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955) (see MPEP 2144.04 Vi. A - Reversal of Parts)).

***Response to Arguments***

4. Applicant's arguments filed 3/3/2008 have been fully considered but they are not persuasive.

5. In response to Applicant's argument that it would not be obvious to use Shiozaki to teach the method in the present claims: Both the present application and Shiozaki teach a valve that is spring biased against a passage. An electromagnet is then used in order to open and close this passage. The present application uses the electromagnet to open the passage and Shiozaki uses the electromagnet to close it. It is most certainly obvious to anyone skilled in the art that this is a mere reversal; thus Shiozaki reads over the prior art.

6. In response to Applicant's arguments with respect to the controlling factors: Examiner points to the Final Rejection where substantial responses were given to all of Applicant's arguments regarding this topic. No new arguments have been made by Applicant that Examiner has not already responded to. Therefore, Examiner maintains responses from the Final Rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER J. BERTHEAUD whose telephone number is (571)272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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PJB  
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